

Title I, Part D Statutory Definitions, Nonregulatory Guidance, and Facility Examples

Term	Title I, Part D Statute, Subpart 3. General Provisions, Section 1432. Definitions	Title I, Part D Nonregulatory Guidance State Agency Programs, Subpart 1. State Agency Programs for Neglected and Delinquent, Section D. Eligible Institutions under Subpart 1	Examples of Facilities that Meet the Definition	Title I, Part D Nonregulatory Guidance State Agency Programs, Subpart 2. Local Programs for At-Risk Youth, Section N. LEA Applications	Examples of Facilities that Meet the Definition
Introductory Information		Once a SA receives Subpart 1 funds, it distributes the funds to eligible institutions within its jurisdiction in accordance with the needs assessment described in its application submitted to the SEA. An eligible institution generally is a public or private facility that operates for the care of children who are N or D and that provides free public education and a regular program of instruction to the children and youth who are in the institution. Eligible institutions may vary from facilities for orphans to minimum-security facilities for juvenile delinquents to maximum-security facilities in adult correctional institutions or prisons. Institutions must be one of the four following types:		N-1. How does an LEA apply to the SEA for funds? To receive Subpart 2 funds, each eligible LEA must apply to the SEA as outlined in section 1423 of ESEA. An LEA application must include (1) a description of the program(s) to be assisted with the Subpart 2 funds, and (2) a description of the formal agreements, regarding the program to be assisted, between the LEA and the local correctional facilities and alternative school programs that serve children and youth involved with the juvenile justice system.	
Adult Correctional Institution	The term adult correctional institution' means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.	Is a facility in which persons (including persons under 21 years of age) are confined as a result of conviction for a criminal offense. An adult correctional institution that confines persons under 21 years of age is eligible to receive Subpart 1 funds if it provides them with a regular program of instruction (not beyond grade 12) by using State funds.	Public prisons run by state departments of corrections Private prisons that contract with state departments of corrections	N-1. How does an LEA apply to the SEA for funds? The application also must include, as appropriate, a description of how participating schools will coordinate with locally operated correctional facilities working with delinquent children and youth that have entered into a formal agreement with the LEA to ensure that the children and youth in the local correctional facilities are	Adult jails run by local county government Adult jails that contract with local county government

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Adult Correctional Institution, cont.				participating in an education program that is comparable to the one the LEA operates in the school that such children and youth would otherwise attend. In determining if the education program in a correctional facility is comparable, the LEA may wish to use criteria that indicate, for example, whether the program meets State academic achievement standards, whether the program offers the subjects required for each grade level, and whether the subjects offered provide credits toward a high school diploma.	
At-Risk	The term at-risk', when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, dependency adjudication, or delinquency adjudication, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system or child welfare system in the past, is at least 1 year behind the expected grade level for the age of the individual, is an English learner, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.	Not referenced in the Nonregulatory Guidance under Subpart 1.		N-1. How does an LEA apply to the SEA for funds? For those LEA s that use Subpart 2 funds to support LEA -operated alternative programs for children and youth who are at-risk, the SEA may require an LEA to describe the procedures it uses to select participating schools and children. Although the statute makes no specific provisions for selecting schools within an LEA to receive Subpart 2 funds to serve children and youth who are at-risk, a SEA may require an LEA to allocate funds based on need, which could reflect concentration of poverty, dropout rates, or some other	An accommodation school run by a local education agency where students may be served that focuses on: <ul style="list-style-type: none">• Teens who are pregnant or parenting• Students who exhibit significant emotional and behavioral needs, etc. An accommodation school that a local education agency contract with to serve students who exhibit significant emotional and behavioral needs, etc.

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				reasonable objective indicator of educational need.	
Community Day Program	The term community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.	A community day program is a regular program of instruction provided by a SA at a community day school operated specifically for neglected or delinquent children and youth.			
Institution for Neglected or Delinquent Children and Youth, A.	The term institution for neglected or delinquent children and youth' means — a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.	An institution for delinquent children and youth is, a as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who have been adjudicated delinquent or in need of supervision and have had an average length of stay in the institution of at least 30 days.	Public prisons run by state departments of juvenile corrections Private prisons that contract with state departments of juvenile corrections	N-1. How does an LEA apply to the SEA for funds? The application also must include, as appropriate, a description of how participating schools will coordinate with locally operated correctional facilities working with delinquent children and youth that have entered into a formal agreement with the LEA to ensure that the children and youth in the local correctional facilities are participating in an education program that is comparable to the one the LEA operates in the school that such children and youth would otherwise attend. In determining if the education program in a correctional facility is comparable, the LEA may wish to use criteria that indicate, for example, whether the program meets State academic achievement standards, whether the program offers the subjects required for each grade level, and whether the subjects offered	Juvenile detention centers run by local county government Juvenile detention centers that contract with local county government

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				provide credits toward a high school diploma.	
Institution for Neglected or Delinquent Children and Youth, B.	The term institution for neglected or delinquent children and youth' means — a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision	An institution for neglected children and youth is, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who have been committed to the institution or voluntarily placed in the institution under applicable State law due to (1) abandonment; (2) neglect; or (3) death of their parents or guardians and have had an average length of stay in the institution of at least 30 days.			
Additional Guidance		<p>D-2. Are short-term institutions (those with an average length of stay of fewer than 30 days) eligible to receive Subpart 1 funds?</p> <p>No. Although some short-term institutions, such as detention, diagnostic, and reception centers, provide basic education services for youth, Subpart 1 services are most effective in institutions where the duration of the stay is longer. Therefore, the average length of stay or participation in an institution for delinquent children and youth, an institution for neglected children and youth or an adult correctional facility should be at least 30 days for these</p>		<p>N-2. May an agency other than an LEA apply for Subpart 2 funds?</p> <p>No. Only LEA s are eligible to apply. An LEA, however, may apply and subcontract with another agency to provide services. In such instances, the LEA must exercise administrative control and assume responsibility for monitoring the contract to ensure compliance with applicable statutory and regulatory requirements.</p> <p>N-3. How does the LEA determine the eligibility of children and youth to receive services under Subpart 2?</p>	

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Additional Guidance, cont.		<p>institutions to be eligible to receive Subpart 1 funds (see 34 CFR 200.90(b) of the Title I, Part D regulations). This average length of stay requirement does not apply to community day school programs serving neglected or delinquent children and youth.</p> <p>D-3. May an SA use its Subpart 1 allocation to serve children and youth in privately operated facilities?</p> <p>Yes. Subpart I authorizes the SEA to provide financial support to SAs that operate educational programs for children and youth in institutions or community day programs for children who are N or D as well as for children or youth in adult correctional facilities. An SA may contract with private facilities to serve N or D children and youth. However, the SA is responsible for ensuring that a private facility operates a program in accordance with all applicable statutory and regulatory requirements.</p> <p>D-4. May a State include SA N or D children and youth served in private facilities in the annual count of eligible children submitted to ED for Subpart 1 allocation purposes?</p>		<p>All children and youth in local correctional facilities are eligible to be served through the age of 21. In local participating schools, all youth who are eligible for services under Title I, Parts A or C of ESEA are eligible if the school receives Title I funds.</p> <p>If a school receiving Subpart 2 funds is not a Title I, Part A school, the LEA may identify the at-risk youth enrolled in the school for Part D services by such categories as:</p> <ul style="list-style-type: none">• Children and youth who have been adjudicated within the juvenile justice system but have returned to a school operated by the school district (using the best available records and data available to identify these individuals);• Migrant children or youth (based on their eligibility for services under Title I, Part C of ESEA);• Immigrant children or youth;• Gang members (based on definitions established by the SEA or LEA);• Pregnant and parenting youth through the age of 21;• Children who are at-risk of school failure or who have failed before;	

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Additional Guidance, cont.		Yes, provided that the N or D children and youth counted are (1) the responsibility of the SA; (2) under the age of 21; and (3) enrolled in a regular program of instruction operated or supported by SAs in institutions or community day programs for N or D children and youth and adult correctional institutions as specified in 34 CFR 200.91 of the Title I, Part D regulations.		<ul style="list-style-type: none">• Children who have limited English proficiency; and• Children who have dropped out of school.	